IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3625 of 2002

Between:

1. A.Koteswara Rao, S/o.Ankaiah, 41 years.
2. D.Peturu, S/o.Yesuratnam, 30 years.
3. D.Tikkaiah, S/o.Chaduvulaiah, 42 years.
4. T.Gopal, S/o.Laxmaiah, 29 years.
5. Syed Chand Pasha, S/o.Syed Vali, 32 years.
6. A.Veera Prasad, S/o.Sankaraiah, 30 years.

(All the above petitioners are working as Pump Operators and are residents of Srisailam East, Kurnool District)

...PETITIONERS

AND

1. A.P.GENCO, rep.by its Director, Vidyuth Soudha, Khairatabad, Hyderabad – 82.
2. A.P.GENCO, rep.by its Chief Engineer (O & M), Srisailam East, Sundipenta, Kurnool District.
3. A.P.GENCO, rep.by its Superintending Engineer, Civil Circle-II, Srisailam Left Bank Hydel Elec.Scheme, Srisailam Dam West, Mahabubnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the respondents and issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, declaring the proceedings Lr.No.CEE/O&M/SLMU/ADM/C1/DKT.98/689/2001, dated 28.06.2001 issued by the second respondent in not absorbing the petitioners are illegal, unjust, contrary to law, arbitrary, discriminatory, amounts to an act of victimization, unfair labour practice and violative of Articles 14, 16 and 21 of the Constitution of India and grant all consequential benefits.

Counsel for the Petitioners: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: SMT.K.SESHARAJYAM, SC for A.P.GENCO

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3625 of 2002

ORDER:

The petitioners herein, who are six in number, working as Pump Operators with the respondents, filed this Writ Petition, *inter alia,* seeking for a mandamus by way of a direction to declare the proceedings dated 28.06.2001 issued by the second respondent in not absorbing them as illegal and violative of Articles 14, 16 and 21 of the Constitution of India.

The case of the petitioners in brief is that they have been working in the said capacity with the contractor Sri K.Bhaskara Rao for more than eight years continuously as on the date of filing of the Writ Petition. In spite of such long service, their cases were not considered for regularization, whereas, similarly placed persons whose names have been shown in para 10 of the affidavit have already been considered and they were given regular appointments. Hence, the present Writ Petition.

In the counter-affidavit filed on behalf of the respondents, the claim of the

petitioners is sought to be denied and also to the effect that the BPMS numbers referred to by the petitioners would not have an application to the contract workers and therefore, no relief as such, can be claimed by the petitioners.

Heard Sri A.K.Jayaprakash Rao, learned counsel appearing on behalf of the petitioners and Smt.K.Sesharajyam, learned standing counsel appearing on behalf of the respondents.

Having regard to submissions of the learned counsel for the petitioners and also on perusal of the material available on record, the only question that arises for consideration is whether the petitioners are entitled to claim similar such appointments on par with the persons mentioned in para 10 of the affidavit, filed in support of the Writ Petition?

There is no dispute with regard to the fact that the petitioners have been working as Pump Operators with the respondents. Though they were working on contract basis but they have put up long service. There is also no dispute with regard to the fact that the following persons mentioned in para 10 were absorbed on regular side though they were also working on contract basis.

1) D.Peramma, D/o.Yohan
2. B.Nagamma, D/o.Periya Mayathenav
3. M.Ananthamma, D/o.Chennaiah
4. S.Lakshmamma, D/o.Venkataiah
5. G.Devamma, D/o.B.Buddappa
6. Sk.Nagoor Bee, D/o.Akka Saheb
7. Ch.Rama Rao, S/o.Gopaiah
8. B.Jangaiah, S/o.Balaiah

9. S.Deva Kumari, W/o.S.Yesubu

10. B.sarojanamma, W/o.Anthony

Though it has been stated that the BPMS numbers and also the Government Orders referred to by the petitioners would not have any application to the employees working under contract on the construction side, the fact remains that the aforesaid individuals who also been working under contract basis on the construction side were taken into service and their services were regularized. There is no distinction as such with regard to the status of the employment and nature of incidents that were taken place in between the petitioners and the aforesaid persons. In the circumstances, there cannot be any justification on the part of the respondents herein to deny the similar relief on par with them and failing which, it would clearly amounts to an arbitrary action and violation of Article 14 of the Constitution of India. Accordingly, it has to be held that the petitioners are entitled to consider for such regular posts as claimed in the Writ Petition.

The Writ Petition is accordingly allowed with a direction to the respondents to consider the petitioners' case for such regular appointments, within a period of two months, from the date of receipt of a copy of this order.

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(B.PRAKASH RAO, J)

19th January 2005

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the nineteenth day of January 2005.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Director, A.P.GENCO, Vidyuth Soudha, Khairatabad, Hyderabad – 82.
2. The Chief Engineer (O & M), A.P.GENCO, Srisailam East, Sundipenta, Kurnool District.
3. The Superintending Engineer, A.P.GENCO, Civil Circle-II, Srisailam Left Bank Hydel Elec.Scheme, Srisailam Dam West, Mahabubnagar District. (With records if any)
4. Two CD copies.